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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,976	05/31/2001	Paul Joseph Datta	659/829	3040

7590                    12/03/2007  
BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395.  
CHICAGO, IL 60610

EXAMINER
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REICHLE, KARIN M

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3761

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12/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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In re Application of: DATTA et al. :  
Appl. No.: 09/872,976 : NOTICE OF NON-ENTRY OF PAPERS  
Title: FULL WRAPPING DISPOSABLE :  
REFASTENABLE AND ADJUSTABLE PANT :  
:

This application is before the Director of Technology Center 3700 for consideration of the return of Appeal Brief filed December 12, 2003. The delay in prosecution of this application is regretted.

In a communication before the Office filed on December 12, 2003, applicant's representative included inter alia remarks under a heading titled Summary of Prosecution (Brief page 4, section (8), number 2.) where the examiner's character, integrity and performance are directly attacked and defamed. The paper has been referred to the Director's office for consideration under 37 CFR 1.3.

37 CFR 1.3 states:

1.3 Business to be conducted with decorum and courtesy.

Applicants and their attorneys or agents are required to conduct their business with the United States Patent and Trademark Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Director and will not be entered. A notice of the non-entry of the paper will be provided. Complaints against examiners and other employees must be made in correspondence separate from other papers.

[Amended, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

The comments regarding the examiner filed on December 12, 2003 appear in violation of the mandate proscribed by 37 CFR 1.3 in as much as all complaints against examiners and other employees must be made in correspondence separate from other papers in the file. Inclusion of these remarks in the Appeal Brief is wholly inappropriate. The December 12, 2003 Appeal Brief has been closed from public view in the Image File Wrapper (IFW) official record.

In consideration of the return of these papers, a full review of the file was conducted. No evidence of arbitrary or capricious action by the examiner is seen.

As a courtesy, it is noted the Appeal Brief of December 12, 2003 is considered defective for at least the reasons outlined hereinbelow. Merely resubmitting the prior Brief omitting the

offending section would be insufficient in advancing the application to Appeal. Any brief filed on or after September 13, 2004 must comply with the requirements set forth in 37 CFR 41.37 and accompanied by the fee under 37 CFR 41.20(b)(2), unless the brief has a certificate of mailing date before September 13, 2004. Any brief filed (or that has a certificate of mailing date) before September 13, 2004 must comply with either the former 37 CFR 1.192 or 37 CFR 41.37. See MPEP 1205.02. When viewing the December 12, 2003 Brief under the rules in effect at its time of filing, 37 CFR 1.192, at least the section entitled (7) Groups of Claims were improper and the claims appendix failed to include a clean copy of the claims in as much as the claims included the parenthetical status identifiers. When viewing the December 12, 2003 brief under current 37 CFR 41.37, the brief is wholly deficient. As the response to this letter will be a Brief filed after September 13, 2004 the new Brief must comply with the requirements set forth in 37 CFR 41.37 in order to advance the appeal.

**To avoid dismissal of the appeal, appellant must file an amended/substitute appeal brief within ONE MONTH or THIRTY DAYS from the mailing of this communication, whichever is longer. Extensions of time may be granted under 37 CFR 1.136.**

Any questions concerning this letter should be directed to J. Harrison, Special Programs Examiner, at 571-272-4449.



Frederick R. Schmidt, Director  
Technology Center 3700